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12  
13 **UNITED STATES DISTRICT COURT**  
14 **DISTRICT OF NEVADA**

15  
16 United States of America,  
17 Plaintiff,  
18 v.  
19 Michael Cernak,  
20 Defendant.

21 Case No. 2:03-cr-00534-KJD-RJJ

22 **Stipulation to Unfreeze Funds in Prison  
23 Account**

24  
25 The parties, through undersigned counsel, hereby submit the following stipulation  
26 to unfreeze Defendant Michael Cernak's Inmate Trust Account and resolve other  
27 outstanding matters related thereto.

28  
29 The United States filed its motion for authorization of payment toward restitution  
30 from funds in Defendant Cernak's Inmate Trust Account on August 14, 2019. ECF No.  
31 151. After briefing, and conferral between counsel, the Government agreed to withdraw its  
32 motion based on the Ninth Circuit's recent, unpublished decision in *United States v. Poff*,  
33 2019 WL 3064444 (9th Cir. July 12, 2019) so that it could conduct additional discovery to  
34 determine the source of funds in the account at issue. ECF No. 154. The United States has

1 also filed a non-opposition to Defendant Cernak's motion that his Inmate Trust Account be  
2 unfrozen. ECF No. 157.

3 Since filing of the United States withdrawal and non-opposition, it has come to the  
4 parties' attention that the Bureau of Prisons, which administers the Inmate Trust Account  
5 at issue, has not yet unfrozen the account because it has not yet received a court order or an  
6 amended judgment. Accordingly, the parties enter the following stipulation to unfreeze the  
7 account and resolve all other pending issues relating to the United States' motion for  
8 authorization of payment from Defendant Cernak's Inmate Trust Account.

9 **IT IS HEREBY STIPULATED AND AGREED** that the United States' Motion to  
10 Authorize Payment from Inmate Trust Account, ECF No. 151, is hereby **WITHDRAWN**.  
11 The withdrawal is without prejudice to the United States refiling the motion at a later time  
12 or conducting discovery into the source of funds in Defendant Cernak's Inmate Trust  
13 Account.

14 **IT IS FURTHER STIPULATED AND AGREED** that Defendant Cernak's  
15 Motion to Unfreeze Funds in Inmate Trust Account, ECF No. 152, is **GRANTED**. The  
16 Bureau of Prisons is instructed to unfreeze the account and provide Defendant Cernak full  
17 access to the funds therein.

1           **IT IS FURTHER STIPULATED AND AGREED** that Defendant Cernak's  
2 Motion to Send Copies to the Prison Business Office is **GRANTED**. The Clerk of Court is  
3 instructed to send the following ECF entries to the Prison Office at the address identified in  
4 Cernak's Motion to Send Copies to the Prison Business Office (ECF No. 158): ECF No.  
5 151, ECF No. 152, ECF No. 154, ECF No. 157, and ECF No. 158. The Clerk of Court  
6 shall also send a copy of this Stipulation.

7           Respectfully submitted this 30th day of September, 2019.

8 NICHOLAS A. TRUTANICH  
United States Attorney

RENE L. VALLADERES  
Federal Public Defender

10 s/ Mark E. Woolf  
11 MARK E. WOOLF  
12 Assistant United States Attorney

13 /s/ Amy B. Cleary  
14 AMY B. CLEARY  
15 AARIN E. KEVORKIAN  
16 Assistant Federal Public Defenders  
17 Attorney for Michael Anthony Cernak

18           **IT IS SO ORDERED:**



19           **Kent J. Dawson**  
20           **United States District Judge**

21           10/1/2019  
22           Dated: \_\_\_\_\_